

Serial No.: 10/777,613  
Attorney Docket No. 8S08.1-200

### **REMARKS**

The Office Actions mailed October 5, 2005, and January 26, 2006, have been received and reviewed. By the present response and amendment, Claims 16-22 are cancelled, and Claim 15 is amended. No new matter is introduced. All claims are now believed to be in condition for allowance for the reasons set forth below. Applicants respectfully request reconsideration.

#### **Claim Objections**

Claim 16 was objected to for allegedly lacking antecedent basis. Applicants have cancelled Claim 16, and thus this objection is moot.

#### **Claim Rejections under 35 U.S.C. §112**

Claim 15 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants have amended Claim 15 to correct the dependency, and thus, Applicants request the Examiner to withdraw this rejection.

#### **Claim Rejections Under 35 U.S.C. §102(b)**

Claims 16-18 and 22 were rejected under 35 U.S.C. §102(b). Applicants have cancelled these claims, and thus, this rejection is moot.

#### **Claim Rejections under 35 U.S.C. §103(a)**

Claims 1-3 and 7-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Maxwell in view of Hutchinson and Crozier. Applicants respectfully traverse this rejection.

The Examiner has not met his burden of establishing a *prima facie* case for obviousness. For a rejection to be proper under 35 U.S.C. §103(a), there must be some suggestion or motivation to combine the references, and the combination must teach every element in the claim. Even in instances where prior art devices or references can be combined or modified to yield the claimed invention, and even though to modify the prior

Serial No.: 10/777,613  
Attorney Docket No. 8S08.1-200

art would have been well within the ordinary skill of the art at the time the claimed invention was made, there must be some suggestion or motivation in the references, or some objective reason to do so. Further, the proposed modification cannot change the principle of operation of the reference. MPEP § 2143.01. Applicants submit the rejection is improper because neither of these requirements is met.

There is simply no disclosure, teaching, or suggestion in the references themselves or some objective reason to combine the metal ladder of Hutchinson with the portable tree stand of Maxwell, with the splice for structural shapes of Crozier, aside from Applicants' own disclosure. Since the prior art does not provide any suggestion or motivation for making the proposed combinations, the combinations of references relied on by the Examiner in the present case are nothing more than impermissible hindsight reconstruction based on Applicants' own teaching, which, of course, is legally impermissible.

Moreover, Applicants submit that Crozier is nonanalogous art. Crozier describes a splice for structural shapes, such as for bearing piles, which can expand or contract so as to bear tightly against the bearing piles. One skilled in the ladder art would not look to art related to load bearings to modify a ladder. Thus, the rejection is improper and should be withdrawn.

Even if the improper combination were made, the improper combination would not teach the claimed invention. Claim 1 recites a hunting ladder for attachment to a tree or pole, comprising

a plurality of ladder sections that can be assembled together to form a rigid structure, including side rails and rungs extending between the side rails, the side rails comprising elongate structural beams, wherein the structural beams comprise double box I-beams having two box sections and a web extending therebetween;  
external side bolsters adapted to be mounted to the outside of adjacent ladder sections to couple the ladder sections together, the external side bolsters being shaped to match and closely abut the structural beams, wherein the external side bolsters are *permanently or semi-permanently mounted to one ladder section and can be removably mounted to an adjacent ladder section*, wherein the side bolsters closely overlay the contours of the double box I-beams, including the web and the two box sections and wrap around distal edges of the box sections, and

Serial No.: 10/777,613  
Attorney Docket No. 8S08.1-200

wherein the structural beams and the external side bolsters have shapes that mate together, and

fasteners extendable through the side bolsters and the structural beams to allow the adjacent ladder sections to be coupled together and uncoupled, as desired.  
(emphasis added)

There is no disclosure, teaching, or suggestion in Crozier that the splice/bolster can be removably coupled to one of the sections and coupled and uncoupled as desired. To the contrary, Crozier teaches permanently attaching the splice to the sections of the piling (such as by bolting, riveting, or welding). Such deficiencies are not cured by the disclosures and teachings of Hutchinson and Maxwell. Hutchinson teaches a non-modular ladder, and thus, no bolsters or splices are needed or desirable. Maxwell teaches a modular ladder with connections between the sections via spring clips. There is no disclosure, teaching or suggestion of providing the external side bolsters *permanently or semi-permanently mounted to one ladder section and can be removably mounted to an adjacent ladder section*. Accordingly, allowance of Claim 1 is respectfully requested.

Because dependent Claims 2-3 and 7-9 include patentably distinct elements and limitations of their own and incorporate the limitations of Claim 1, these dependent claims are allowable for at least the reasons set forth above for the corresponding independent claim. Thus, Claims 2-3 and 7-9 are also allowable. Accordingly, allowance of Claims 2-3 and 7-9 is respectfully requested.

Claim 2 recites, "A hunting ladder as claimed in Claim 1 further comprising a seat attached to an upper portion of the ladder without requiring attachment of the seat to the tree or pole." Of Hutchinson, Crozier, and Maxwell, only Maxwell shows a seat. However, the seat of Maxwell is clearly attached to the tree, as shown in Figure 2 by the chain 45 that extends about the trunk of the tree. Accordingly, allowance of Claim 2 is respectfully requested.

Claim 8 recites, "A hunting ladder as claimed in Claim 7 wherein the fasteners comprise threaded hand knobs." The Examiner's rejection simply states, "It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify either Cramer or Michel to comprise conventional knob fasteners in lieu of their bolts to facilitated [sic.] hand assembly." However, neither Cramer nor Michel (and Applicants

Serial No.: 10/777,613  
Attorney Docket No. 8S08.1-200

assume that the Examiner is using "Michel" to refer to French Patent 262016 of Claude Jean-Michel Goudron) was used as the basis of the Examiner's rejection. Moreover, even if the Examiner were using the either Cramer or Goudron as the basis of a 103(a) rejection, neither discloses, teaches, or suggests assembling the ladder sections with the use of threaded hand knobs or even without the use of tools. Thus, allowance of Claim 8 is respectfully requested.

Claim 9 recites, "A hunting ladder as claimed in Claim 1 wherein the external side bolsters are removably attached to each of the adjacent ladder sections." As discussed above, Crozier, Hutchinson, and Maxwell, either alone or combination, disclose, teach, or suggest bolsters that are removably attached to each of the adjacent ladder sections. Accordingly, allowance of Claim 9 is respectfully requested.

Claims 10 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Maxwell, Hutchinson, and Crozier, as applied to Claim 1, and further in view of Stillman, Jr. Applicants respectfully traverse this rejection.

Because dependent Claims 10 and 11 include patentably distinct elements and limitations of their own and incorporate the limitations of Claim 1, these dependent claims are allowable for at least the reasons set forth above for the corresponding independent claim. Thus, Claims 10 and 11 are also allowable. Accordingly, allowance of Claims 10 and 11 is respectfully requested.

Claims 2 and 16-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Maxwell, Hutchinson, and Crozier, as applied to Claim 1, and further in view of Robertson. Applicants respectfully traverse this rejection.

Because dependent Claim 2 includes patentably distinct elements and limitations of its own and incorporates the limitations of Claim 1, this dependent claim is allowable for at least the reasons set forth above for the corresponding independent claim. Thus, Claim 2 is also allowable. Accordingly, allowance of Claim 2 is respectfully requested.

Claims 16-21 are cancelled herein, and thus the rejection of these claims is moot.

Serial No.: 10/777,613  
Attorney Docket No. 8S08.1-200

**CONCLUSION**

In view of the amendments submitted herein and the above comments, it is believed that all grounds of rejection are overcome and that the application has now been placed in full condition for allowance. Accordingly, Applicants earnestly solicit early and favorable action. Should there be any further questions or reservations, the Examiner is urged to telephone Applicants' undersigned attorney at 770.984.2300.

Respectfully submitted,  
GARDNER GROFF SANTOS & GREENWALD, P.C.

  
Michelle E. Kandcer  
Reg. No. 54,207

Customer Number 23506  
GARDNER GROFF SANTOS & GREENWALD, P.C.  
2018 Powers Ferry Road  
Suite 800  
Atlanta, Georgia 30339  
Tel: 770.984.2300  
Fax: 770.984.0098